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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: LIN 02 040 52840

Office: Nebraska Service Center

Date: AUG 12 2003

IN RE: Applicant:

Application:

Application for Refugee Travel Document Pursuant to 8
C.F.R. § 223.1(b)

ON BEHALF OF APPLICANT: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant, a native and citizen of Colombia, seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The director denied the application after determining that the application was filed after the applicant had departed the United States.

Regulations at 8 C.F.R. § 223.2(b) state, in pertinent part, that:

Eligibility. (2) Refugee travel document. (i) General. Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylee status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylee or refugee status.

Regulations at 8 C.F.R. § 223.2(c) state, in pertinent part, that:

Ineligibility. (1) Prior document still valid. An application for a reentry permit shall be denied if the applicant was previously issued a reentry permit or refugee travel document which is still valid, unless it was returned to the Bureau or it is demonstrated that it was lost.

The record indicates that the applicant was admitted to the United States as an asylee, pursuant to section 208 of the Immigration and Nationality Act, on April 10, 2001.

The applicant filed the instant application on October 22, 2001. However, the applicant also filed two additional applications for refugee travel documents within a six-month period. On June 11, 2001, he filed his first application, receipt number LIN 01 209 53372. He then filed the instant, second, application. And on November 21, 2001, he filed a third application, receipt number LIN 02 046 54387.

The record reflects that at the time the applicant filed the instant, second, application for a refugee travel document, the first application had already been approved and the Bureau had issued and mailed the document to the applicant. The applicant states that the document was temporarily lost in the mail, hence he filed second and third applications.

On December 18, 2001, the applicant received the temporarily lost document that had been issued to him upon his first application. He then departed the United States on January 9, 2002 and used that document to return on January 23, 2002.

Although the director was incorrect in noting that the applicant had already departed the United States at the time of filing the instant, second, application for a refugee travel document, he had, in fact, already been issued a document based on his first application at that time.

Inasmuch as the applicant had already been issued a refugee travel document at the time the instant application was filed and, in fact, has used that document to travel, this appeal will be dismissed as a matter of discretion.

Information contained in the record indicates that his third application was denied by the director on December 29, 2001 because he had a valid refugee travel document.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden.

ORDER: The appeal is dismissed.